



STATE OF NEVADA
COMMISSION ON ETHICS
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MINUTES
of the meeting of the
COMMISSION ON ETHICS
February 12, 2009

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A certified court reporter transcribed the minutes of the meeting and a transcript is available.

The Commission on Ethics held a public meeting on Thursday, February 12, 2009, beginning at 10:30 a.m. at the following locations:

The Nevada State Gaming Control Board, 1919 E. College Parkway, Room 100,
Carson City, Nevada, and the Nevada State Gaming Control Board, 555 East
Washington Street, Room 2450, Las Vegas, Nevada.

The sites were connected by videoconference.

Call to Order, Roll Call.

In Las Vegas, Chair Mark Hutchison called the meeting to order and called the roll at 10:28 a.m., Thursday, February 12, 2009. Chair Mark Hutchison and John T. Moran, III, Esq. were present in Las Vegas. Present also in Las Vegas were Tami E. DeVries, Research Analyst, and Michel Vavra, Investigator.

Present in Carson City were Commissioners George M. Keele, Esq., Paul H. Lambole, Esq., John W. Marvel, and James M. Shaw. Also present in Carson City were Executive Director Patricia D. Cafferata, Esq., Adriana G. Fralick, Esq., General Counsel, and Michelle A. Ené, Executive Assistant. Commissioner Erik Beyer was excused and did not answer to roll call. Beyer arrived sometime prior to Agenda Item 4, the William Eisele matter. Members of the public were asked to sign in, and the sign-in sheets are attached to the original minutes as Exhibit A.

1. Open session on the proposed Stipulation on Jeff McGowan, Fernley City Attorney, on Request for Opinion No. 08-61C.

Mr. McGowan was represented by Attorney Rebecca Bruch, Esq. from the Law Office of Erickson, Thorpe & Swainston, Ltd.

Following testimony and deliberations, Commissioner Moran moved that the Commission on Ethics authorize its Chair Mark Hutchison to execute the proposed stipulation before it in Opinion No. 08-61C. Commissioner Marvel seconded the motion. Commissioner Keele asked for an amendment to the motion. The amendment outlined evidence that supported the acceptance of the stipulation. Moran amended his motion and Marvel seconded the amended motion. The motion passed unanimously. Commissioner Shaw was excused from the proceedings because he participated in the panel proceeding hearing.

2. Approval of minutes of the January 8, 2009 meeting.

Marvel moved for the approval of the minutes of the January 8, 2009. Keele seconded the motion. The motion passed unanimously.

3. Open session to elect a Temporary Acting Chair, pursuant to NAC 281A.175, for the William Eisele hearing, on Request for Opinion No. 08-38C. Eisele is a member of the Indian Hills General Improvement District in Douglas County, Nevada.

This item was closed because with Chair Hutchison present, there was no need to appoint a temporary acting Chair.

4. Open session for hearing on William Eisele, a member of the Indian Hills General Improvement District in Douglas County, Nevada, on Request for Opinion No. 08-38C.

William Eisele was represented by Attorney Brent Kolvet from the Law Office of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, P.C.

Following testimony and deliberations, Commissioner Beyer moved that the Commission on Ethics authorize its Chair Mark Hutchison to execute the proposed stipulation before it in Opinion No. 08-38C. Commissioner Lamboley seconded the motion. Commissioners Keele and Shaw abstained from voting because they participated in the panel proceeding hearing. Moran had left the hearing and therefore did not vote. Beyer, Lamboley, Marvel and Hutchison voted to approve the stipulation.

5. Open session on 2009 Legislative Session for discussion of legislation, including Commission's bill, SB 104, bill drafts, resolutions, amendments to bills, and status of bills that are related to ethics and the Ethics Commission, and discussion of committee meetings, testimony, the Commission's budget and other matters properly related thereto.

The Executive Director Patricia Cafferata stated that she had gone to the Senate Finance Committee and briefed them on the Commission's budget. Cafferata stated that she did raise two issues at the Senate Finance hearing. One was the Attorney General cost allocation and the other was the Executive Director's salary reduction by \$10,000.00 on top of the six percent salary reduction for State employees that the Governor was recommending. Cafferata stated that she had earlier inquired about the salary reduction and was told by the Department of Administration that it was solely the six percent salary reduction. As it turns out, this was not true.

Cafferata stated that she did briefings before the Assembly and Senate committees that deal with ethics. Cafferata stated that the briefing included the Commission's procedures, annual report, housekeeping bill and the request for an interim study of ethics in Nevada.

The Commission discussed the Commission's budget. The Commission also discussed base budget and how that affects the budget for the following two years.

The Commission discussed draft legislation. Keele stated there were two items that he wanted to discuss. One was the wording or absence of the word "company" in Chapter 281A.040 (5). The second concern was in Section (6), the Legislature's attempt to define "legislative function."

Keele suggested that Ené set up a tickler system for the Commission with regards to Chapter 281A.500, the filing of statements of statutory ethical standards. Then the Commissioners would not miss the statutory deadlines. Cafferata stated that we currently remind the Commissioners of the deadlines. Further, she said the Secretary of State has proposed legislation to take over all the financial disclosure statements and the acknowledgment statements.

Moran asked if there was a way for the Commission to charge a filing fee for those statements. Cafferata stated that, even if the Commission charged a filing fee, the money would go to the general fund.

A lunch recess was taken at 12:09 p.m. The meeting reconvened at 1:40 p.m.

6. Open session on the proposed Stipulation with Bob Loux, former Executive Director of the Agency for Nuclear Projects, on Request for Opinion No. 08-57C.

Commissioners Lamboley and Marvel disclosed and explained conflicts of interest they had and recused themselves from participating due to such conflicts. Bob Weise and Don Klasic were appointed as temporary Commissioners for the Loux matter.

Bob Loux was represented by Attorneys Judy Sheldrew and Tom Perkins.

Following testimony and deliberations, Keele moved that the Commission approve the proposed Stipulated Agreement with one exception namely: that the language on Page 3 of 5 of the Stipulated Agreement, paragraph 5-A, to read as follows "Loux committed a violation of NRS 281A.400 subsection (2), a willful violation." Chair Hutchison seconded the motion. Commissioner Weise and Commissioner Shaw stated that they were not comfortable with the

motion as presented. Klasic stated that he would not be supporting the motion. Keele withdrew his motion and Chair Hutchison seconded the motion to withdraw.

Klasic moved that the Commission approve the proposed stipulated agreement in lieu of holding a hearing based upon the evidence provided. Keele seconded the motion. Klasic included as an attachment to the stipulation the memorandum dated February 4, 2009. The motion failed by a three to two vote with Weise, Shaw and Hutchison voting "no" and Keele and Klasic voting "yes".


Keele moved that the Commission table Agenda Item No. 6 on the February 12, 2009 agenda, Request for Opinion No. 08-57C, Bob Loux, former Executive Director of Agency for Nuclear Projects. Shaw seconded the motion. The motion passed unanimously.

6. Public comment.

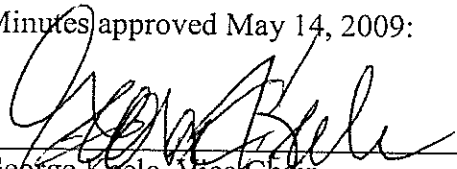
No public comment was made.

Hutchison adjourned the meeting at 3:36 p.m.

Minutes transcribed by:


Michelle A. Ené, Executive Assistant

Minutes approved May 14, 2009:


George Keele, Vice Chair